

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/771,887	Confirmation No. 3884
Filed	:	February 4, 2004	
Title	:	ROTATING/NON-ROTATING TIBIA BASE	
	:	PLATE/INSERT SYSTEM	
Applicants	:	Charles H. Perrone Jr., et al.	
TC/A.U.	:	3774	
Examiner	:	Ann M. Schillinger	
Atty. Docket No.	:	ZIM0587/101-451	
Customer No.	:	43963	

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

MAIL STOP APPEAL BRIEF-PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is filed in response to the Order of June 1, 2011, from the United States Patent and Trademark Office Board of Patent Appeals and Interferences indicating that the Appeal Brief filed on May 23, 2011, in response to the Final Rejection mailed December 23, 2010, fails to comply with 37 C.F.R. § 41.37(c). Applicants respectfully submit a revised Summary of Claimed Subject Matter section of the Appeal Brief changing the paragraph designations from the patent publication to the page and line numbers of the specification as originally filed per the Examiner's request.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The following explanation of the subject matter of the present application including the subject matter defined in each of the independent claims is provided with specific reference to the specification and the drawings as acquired by 37 C.F.R. § 41.37 (c)(v). These references are made to specific embodiments disclosed in the application and do not limit the scope of the independent claims to the specific embodiments and should not necessarily be considered to be exhaustive.

A. Background

The present invention is directed to a rotating/non-rotating tibia baseplate/insert system. The two largest and longest bones of the human body, the femur and tibia, meet at a person's knee. The head of the tibia includes two smooth concaved compartments or surfaces which articulate with the condyles of the femur. Page 2, lines 14-18. The articulating surfaces of the natural knee may degrade and be replaced with prosthetic devices attached to the natural femur and tibia. Page 3, lines 2-4. The tibia prosthesis typically includes a baseplate and an articulating surface or insert. Page 3, lines 4-5). In some cases it may be desirable that the tibia insert rotate relative to the tibia baseplate. Page 3, lines 14-15. However, in some cases it may be desirable to prevent the tibia insert from rotating relative to the tibia baseplate. Page 3, lines 19-20. Further, it may be desirable to modify an already implanted rotating tibia insert to a non-rotating insert. Page 4, lines 1-18.

B. Independent Claim 1

i. Narrative

With the foregoing in mind, the claimed invention provides tibia baseplate 10 as illustrated in Figures 10A, 10B and 10D. Tibia baseplate 10 includes an upper surface, a lower surface, and outer perimeter side surface 33 extending between the upper surface and the lower surface as illustrated in the aforementioned figures. Insert 12 is illustrated in Figures 10A-10B. Insert 12 includes an upper surface, a lower surface, and an outer perimeter side surface 31 extending between the upper surface and the lower surface as illustrated in the aforementioned figures. Insert

12 is further adapted to be positioned above baseplate 10 as illustrated in Figure 10B. Insert 12 and baseplate 10 have a first configuration in which insert 12 is translationally fixed to baseplate 10 and rotatable relative to baseplate 10. Specifically, a connector such as cone 22 (Figure 10D) is sized to be received in opening 24 (Figure 1) to rotatably connect insert 12 to baseplate 10. Page 12, lines 3-4. Removable pin 14 can be selectively utilized to engage a portion of baseplate 10 and insert 12 to thereby prevent rotation between insert 12 and baseplate 10. Page 11, lines 13-20. Pin 14 is exemplified in Figures 11A-11C and 10A-10C. Pin 14 is configured to engage at least a portion of insert 12 and baseplate 10 via openings 28, 30 (Figure 10B) that are formed in the side surfaces 31, 33 (Figure 10A) of insert 12 and baseplate 10. As illustrated in Figures 11A-11C and 10B, pin 14 includes tabs 14F and 14G that are adapted to engage openings 20 and 28 (Figure 10D), respectively. Tabs 14F, 14G are sized and configured such that they may be press-fit or snap-fit with openings 20, 28 in baseplate 10 and insert 12, respectively. Page 16, lines 19-21. Tabs 14F, 14G as well as the openings in which they are to be positioned may include a variety of configurations as detailed in Page 16, lines 21-23.

ii. Specific Language of Independent Claim 1 Including References to the Specification and Drawings

Claim 1. A device, comprising:

a first tibia base plate (10) comprising an upper surface, a lower surface and an outer perimeter side surface (33) extending between said upper surface and said lower surface of said first tibia base plate (Figures 10A, 10B, 10D, Page 11, lines 13-20);

an insert (12) comprising an upper surface, a lower surface and an outer perimeter side surface (31) extending between said upper surface and said lower surface of said insert (Figures 10A-10B), said insert adapted to be positioned above said first base plate (Figure 10B), said insert (12) and said first base plate (10) having a first configuration, wherein said insert (12) is translationally fixed to said first base plate (10) and rotatable relative to said first base plate via cone 22 and opening 24 (Page 11, line 22 – Page 12, line 9);

a connector (22) rotatably connecting said insert (12) to said first tibia base plate (10);
and

at least one removable pin (14) having a first portion (14F) and a second portion (14G), said first portion (14F) of said pin sized for engagement with an opening (20) formed in said outer perimeter side surface (33) of said first base plate (10) and said second portion (14G) of said pin sized for engagement with an opening (28) formed in said outer perimeter side surface (31) of said insert (12) to thereby prevent relative rotation between said insert (12) and said first base plate (10) (Page 16, lines 2-11).

C. Independent Claim 15

i. Narrative

Independent claim 15 includes a tibia baseplate and insert as described in the exemplifications outlined above together with a "means for rotatably connecting said insert to said first tibia baseplate." This means plus function limitation (as permitted by 35 U.S.C. §112, paragraph 6) is described in the present specification with reference to corresponding structure exemplified by cone 22 extending from insert 12 and opening 24 formed in baseplate 10. Independent claim 15 further calls for a "removable means for selective engagement with both said insert and said first tibia baseplate for preventing relative rotation between said insert and said first baseplate." This means the function limitation (as permitted by 35 U.S.C. §112, paragraph 6) is described in the present specification with reference to corresponding structure exemplified by pin 14 having tabs 14F, 14G and the cooperating openings 20, 28 in baseplate 10 and insert 12 described above. See also Page 19, lines 4-10.

ii. Specific Language of Independent Claim 15 Including References to the Specification and Drawings

Claim 15. A device, comprising:

a first tibia base plate (10) comprising an upper surface, a lower surface and an outer perimeter side surface (33) extending between said upper surface and said lower surface of said first tibia base plate (Figures 10A, 10B, 10D, Page 16, lines 2-11);

an insert (12) comprising an upper surface, a lower surface and an outer perimeter side surface (31) extending between said upper surface and said lower surface of said insert (Figures

10A-10B), said insert adapted to be positioned above said first base plate (Figure 10B), said insert (12) and said first base plate (10) having a first configuration, wherein said insert (12) is translationally fixed to said first base plate (10) and rotatable relative to said first base plate (Page 16, lines 2-11);

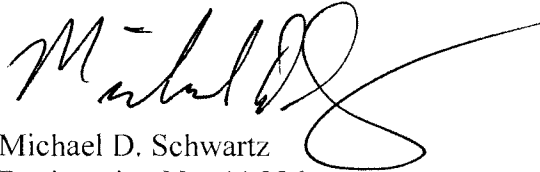
a means for rotatably connecting said insert to said first tibia base plate (22, 24) (Page 11, line 22 – Page 12, line 9); and

a removable means for selective engagement with both said insert and said first tibia base plate for preventing relative rotation between said insert and said first base plate (14, 14F, 14G, 20, 28), (Page 19, lines 4-10) wherein, when installed, a first portion (14F) of said removable means is configured to engage an opening (20) formed in said outer perimeter side surface (33) of said first base plate (10) and a second portion (14G) of said removable means is configured to engage an opening formed in said outer perimeter side surface (31) of said insert (12) to thereby prevent relative rotation between said insert (12) and said first base plate (10) (Page 16, lines 2-11).

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In the event Applicants have overlooked the need for an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Respectfully submitted,



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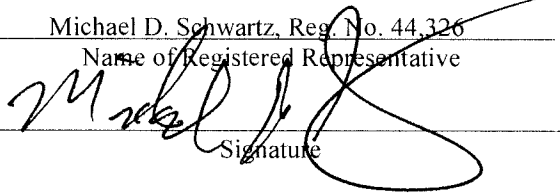
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CERTIFICATION OF ELECTRONIC FILING

I hereby certify that this correspondence is being electronically filed with the United States Patent and Trademark Office on the date indicated below:

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Name of Registered Representative



Signature

July 1, 2011

Date